

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**FIRST MERIT BANK, N.A., as successor in
interest by assignment from the FDIC as
receiver for Midwest Bank and Trust
Company,**

Plaintiff,

v.

**CARADONNA ENTERPRISES, LLC,
NICHOLAS M. CARADONNA, CHICAGO
TITLE LAND TRUST COMPANY, AS
SUCCESSOR TRUSTEE TO NORTH
STAR TRUST COMPANY, AS
SUCCESSOR TRUSTEE TO HARRIS
TRUST SAVINGS BANK, FORMERLY
KNOWN AS HARRIS BANK PALATINE,
N.A., SUCCESSOR TO SUBURBAN
NATIONAL BANK OF PALATINE, AS
TRUSTEE UNDER TRUST AGREEMENT
DATED DECEMBER 11, 1984 AND
KNOWN AS TRUST NUMBER 4460,
MICHAEL L. CARADONNA, AS
BENEFICIARY OF TRUST
AGREEMENT DATED DECEMBER
11, 1984 AND KNOWN AS TRUST
NUMBER 4460,**

Defendants.

Case No. 1:14-cv-01582

The Honorable Virginia M. Kendall

**Magistrate Judge: Honorable Michael T.
Mason**

Plaintiff, FIRST MERIT BANK, N.A., as successor in interest by assignment from the FDIC as receiver for Midwest Bank and Trust Company, by and through its attorney, Tejal S. Desai of Latimer LeVay Fyock LLC, files this motion for entry of a deficiency judgment against defendants Caradonna Enterprises, LLC and Nicholas M. Caradonna on Counts II and III

of Plaintiff's Complaint to Foreclose Mortgage and for Other Relief. In support thereof, Plaintiff states as follows:

1. On March 6, 2014, Plaintiff filed its Complaint to Foreclose and for Other Relief against Defendants, which was subsequently amended on June 23, 2014 ("Complaint"). (Doc. #27).

2. Count I of the Complaint seeks to foreclose a mortgage on the property commonly known as 71 West Seegers Road, Arlington Heights, Illinois 60005 ("Property"). (Doc. #27, pgs. 6-10).

3. Counts II and III of the Complaint seeks judgment against Caradonna Enterprises, LLC for breach of a Note (Count II) and against the Nicholas M. Caradonna for breach of a Guaranty (Count III). (Doc. #27, pgs. 10-12).

4. Plaintiff filed its *Motion for Order of Default and Entry of Judgment* on August 13, 2014, requesting entry of an order of default as to all Defendants, entry of default judgment and judgment of foreclosure and sale as to Count I of its Complaint and for entry of default judgment on Counts II and III of its Complaint. (Doc. #37).

5. On August 19, 2014, this Court granted Plaintiff's Motion and entered an order granting Plaintiff's motion for default judgment and for order of sale, an order of judgment of foreclosure and sale and an order of judgment of foreclose and sale in the amount of \$766,814.05. (Doc. #41, 42 & 43).

6. A sale of the Property was conducted by Intercounty Judicial Sales on November 3, 2014, at which time Plaintiff was the successful bidder at the same and bid a price of \$484,500.00, leaving a deficiency in the amount of \$300,751.20. See, Report of Sale attached hereto as **Exhibit A**.

7. Additionally. Plaintiff has also incurred expenses related to the Receiver's fees in the amount of \$10,392.00, which fees were previously approved by the Court on July 16, 2014 and October 27, 2014 based on the approval of the Receiver's First and Second Reports. See Court Orders of July 16, 2014 and October 27, 2014 attached hereto as **Group Exhibit B**.

8. Caradonna Enterprises, LLC and Nicholas M. Caradonna were personally served with summons and true and correct copies of the Affidavits of Service are attached hereto as **Exhibits C and D**, respectively.

9. Plaintiff seeks entry of a deficiency judgment in its favor and against Caradonna Enterprises, LLC and Nicholas M. Caradonna, jointly and severally, in the amount of \$311,143.20.

WHEREFORE, Plaintiff, **FIRST MERIT BANK, N.A., as successor in interest by assignment from the FDIC as receiver for Midwest Bank and Trust Company**, requests that judgment be entered in its favor and against Defendants **Caradonna Enterprises, LLC and Nicholas M. Caradonna, jointly and severally**, in the amount of \$311,143.20 and for such other relief as this Court deems just.

FIRST MERIT BANK, N.A., as successor in interest by assignment from the FDIC as receiver for Midwest Bank and Trust Company

By: _____ /s/Tejal S. Desai
One of Its Attorneys

Brian D. LeVay (ARDC No. 6199582)
Tejal S. Desai (ARDC No. 6280834)
LATIMER LeVAY FYOCK LLC
55 West Monroe Street, Suite 1100
Chicago, Illinois 60603
(312) 422-8000 / (312) 422-8001 (Fax)